

**CITY OF NEWPORT BEACH PLANNING COMMISSION MINUTES**  
**Council Chambers – 100 Civic Center Drive**  
**Thursday, August 22, 2013**  
**REGULAR MEETING**  
**6:30 p.m.**

**I. CALL TO ORDER** - The meeting was called to order at 6:30 p.m.

**II. PLEDGE OF ALLEGIANCE** – Commissioner Ameri

**III. ROLL CALL**

PRESENT: Ameri, Brown, Hillgren, Kramer, Lawler, Myers, and Tucker

ABSENT: None

Staff Present: Brenda Wisneski, Deputy Community Development Director; Leonie Mulvihill, Assistant City Attorney; Marlene Burns, Administrative Assistant; Tony Brine, City Traffic Engineer; Jim Campbell, Principal Planner; Makana Nova, Assistant Planner; Rosalinh Ung, Associate Planner; Melinda Whelan, Assistant Planner; and Benjamin Zdeba, Assistant Planner

**IV. ELECTION OF OFFICERS (CONTINUED FROM PREVIOUS MEETING)**

1. Appointment to the General Plan/LCP Committee
  - a. Chair to appoint one additional member, and confirm existing appointments.

Chair Hillgren reported that Commissioner Myers agreed to serve on the General Plan/LCP Committee. He announced the appointment of Commissioner Myers to said Committee.

**V. PUBLIC COMMENTS**

Chair Hillgren invited those interested in addressing the Planning Commission to do so at this time.

Jim Mosher commented on the public hearings to be heard this evening and staff's respective recommendations. He opined that City staff should be neutral in all applications and emphasized that conduct at the hearing can contribute to the public's perception of openness and due process. He reported that Planning Commission hearings are regarded as quasi-judicial hearings thereby requiring full disclosure of communications received and recommended full disclosure of Ex Parte communications. Regarding due process, he believed that the Planning Commission's decisions must be based on accurate facts and felt that once the initial public period is closed, if there are new facts presented, the public period should be reopened so that the public has a chance to rebut on the accuracy of the information.

There being no others wishing to address the Planning Commission, Chair Hillgren closed the Public Comments portion of the meeting.

**VI. REQUEST FOR CONTINUANCES**

Deputy Community Development Director Wisneski reported receiving a request to continue Item No. 4, (Lido Villas - PA2012-146).

Chair Hillgren reported having conversations with the applicant, noted the importance of the matter for the City and indicated preference for having a presentation by staff, presently, to allow the Commission to understand the related issues. The applicants agreed and Chair Hillgren requested reordering the agenda to move Item No. 4 (Lido Villas - PA2012-146) as well as the Item No. 5 (Housing Element Update – PA2012-104) before Item No. 3 (Uptown Newport MSDR – PA2013-129), in the interest of time.

**VII. CONSENT ITEMS****ITEM NO. 1 MINUTES OF AUGUST 8, 2013**

**Recommended Action:** Approve and file

Chair Hillgren acknowledged written comments submitted regarding the minutes.

Interested parties were invited to address the Planning Commission on this item, there was no response and Chair Hillgren closed public comments for this item.

**Motion** made by Vice Chair Tucker and seconded by Commissioner Brown and carried (6 – 1) to approve the minutes of August 8, 2013, as corrected.

AYES: Ameri, Brown, Hillgren, Kramer, Myers, and Tucker

NOES: None

ABSTENTIONS: Lawler

ABSENT: None

Chair Hillgren addressed the process for hearing Public Hearing items.

**VIII. PUBLIC HEARING ITEMS****ITEM NO. 2 HORMANN VARIANCE (PA2013-086)**

**Site Location:** 417 and 419 E. Balboa Boulevard

Assistant Planner Ben Zdeba presented details of the staff report including a description of the proposed project, existing conditions, Zoning Code requirements, particulars of the variance, the project site, location, lot size, surrounding properties, access, and background. He addressed setbacks, conformance with the Zoning Code, details of the addition, required findings for issuing a variance, and recommendations.

Interested parties were invited to address the Planning Commission on this item.

John Loomis, architect for the applicant, presented a brief history of the site and noted changes in Zoning over time. He addressed the fifty (50%) percent rule and other options considered including altering the existing building to conform with the setback requirements. He stated that per the advice of contractors the cheapest way to bring the property into conformance would be to demolish the existing building and reconstruct it. He reported that the option would not be financially feasible; therefore, the only option was to request a variance. He stated that there is no other way of making the property compliant unless it is completely demolished and rebuilt. Therefore, the variance is not a special privilege, but a necessity. He reported that the Fire Department is comfortable with the proposal and addressed compatibility with the neighborhood and benefits to the community. He noted the allowance of variance to deal with anomalies.

Vice Chair Tucker noted that the Planning Commission does not make policies but operates under existing policies. He addressed circumstances applicable to properties (not buildings) in consideration of variances and noted it does not take into account unusual circumstances as laid out by Mr. Loomis. He noted that Mr. Loomis can always appeal the issue to Council.

Mr. Loomis referenced "unique circumstances" and felt that it would apply to the building on the property noting that it is infeasible to remove the building.

Greg Hormann, property owner, reported that the non-conformance was not reported when he purchased the property. He commented on his intent to expand the property but explained that it is financially unfeasible to demolish the property. He indicated a belief that had the plans been submitted earlier, City staff would have supported the expansion, but that the application was postponed due to the architect's illness. He requested that the Planning Commission take into consideration those circumstances and the sequence of events in granting the variance request.

In response to an inquiry by Chair Hillgren, Mr. Hormann reported that Mr. Loomis had several meetings with the Planning Division before his illness and they were on board with the plan, but that subsequently, the Senior Planner assigned to the project retired.

Vice Chair Tucker referenced a letter indicating that the Senior Planner was on board with the plan. He noted that recommendations from staff are not always agreed to by the Planning Commission and that the Commission has the authority to approve or not approve recommendations. He doubted that the Planning Commission's action would be different if staff were recommending approval.

W.R. Dildine commented on a nearby property that is under similar conditions and expressed support of the variance, noting that the owners have made substantial improvements to the property. He felt that the project will help relieve existing parking problems in the area.

George Hajjar, adjacent neighbor, commented positively on the condition of properties in the area and felt that the subject property is "out of sync" with the area. He expressed concerns with access to his garage because of parked cars and felt that if the variance is allowed, he will continue to have difficulties accessing his property. He reported an existing gas meter that sticks out of the ground and felt it poses a danger and that it should be put underground. He expressed concerns with the project blocking his views and stated his support for denying the variance.

Jerry Bradfield, adjacent neighbor, spoke in support of the proposed variance and noted the uniqueness of the area. He addressed weekly rentals and related problems in the area and stressed that the applicant will be living in the residence. He commented positively on the applicant's efforts to integrate the old with the new. He encouraged the Planning Commission to approve the variance.

Dillon Colucci, adjacent neighbor, voiced support for the proposed variance and opined that if a property already has a structure on it, the structure would be included in the topography of the lot. He felt that the existing structure on the subject property meets the definition under "unique circumstances" and commented positively on the proposed project.

Ryan Snep, adjacent neighbor, addressed improved parking by the proposed project and addressed its compatibility with the surrounding area. He spoke in support of the proposed variance.

Jim Mosher felt that if the Planning Commission votes for the resolution for approval, it would need to be rewritten stating facts in support of the findings. If the Commission were to vote for the draft resolution of denial, he pointed out grammatical errors within the resolution.

There being no others wishing to address the Planning Commission on this item, Chair Hillgren closed the public hearing.

Commissioner Myers reported visiting the property, having carefully examined the report, and as a result stated his support of the findings and agreed with the unique circumstances applicable to the subject property, which would include the existing structure. He stated that he would vote against the resolution to deny the variance.

Commissioner Brown agreed with Commissioner Myers in terms of findings in support of the variance. He encouraged developing ideas to help the applicant proceed with the project. He addressed comments received in support of the project and felt that consideration should be given to the fact that the owner will reside on the property. In terms of the proposed square footage, he felt that there are comparable properties surrounding the subject site.

In response to an inquiry from Chair Hillgren, Assistant Planner Zdeba addressed the intent of setbacks and addressed differences between side and front setbacks and the requirements for each.

Ms. Wisneski addressed allowances relative to commercial versus residential zones.

Commissioner Kramer commented on a prior case under similar circumstances at 407 East Balboa Boulevard.

Mr. Zdeba noted that the property was considered prior to the adoption of the new Zoning Code and commented on the specific circumstances considered at the time. He further clarified that the modification permit granted under the old Zoning Code to 407 East Balboa Boulevard allowed an addition consistent with what is allowed by right in the new Zoning Code.

Commissioner Kramer commented on other physical features of the property.

Commissioner Ameri expressed sympathy for the applicant but felt that there are ways to reach the applicant's intent without having to demolish the property. He addressed the Planning Commission's limit to authority in terms of the ability change the Code. He expressed concerns with setting a precedent.

Commissioner Myers commented on the need to revise the resolution and continue the matter.

Assistant City Attorney Leonie Mulvihill reported that if the intent of the Commission is to consider a resolution for approval, it could be approved at this time if sufficient information is provided to have staff develop a resolution for approval.

The maker of the motion would need to articulate the findings.

Commissioner Kramer indicated he cannot support the findings and will vote against the motion.

Chair Hillgren stated that he cannot support the findings, noted that the code allows for expansion of the property but expressed concerns with the proposal to have the structure built to the front setback line. He indicated support for the applicant's efforts to improve the property but stressed the need to comply with the code.

**Motion** made by Commissioner Myers and seconded by Commissioner Brown and failed (2 – 5), to deny adoption of Resolution No. 1918 denying Variance No. VA2013-002 and support issuance of the variance based on the fact that unique circumstances and conditions exist on the property and that strict compliance with the Zoning Code would deprive the subject property of privileges enjoyed by other properties in the vicinity and the granting of a variance is necessary for the preservation and enjoyment of the property rights of the applicant and will not constitute special privilege or be inconsistent with zoning and will not be detrimental to the neighborhood. Facts in support would be that the property has been in existence for seventy-three (73) years. Special circumstances would include that the property was built prior to significant zoning changes, is currently well-maintained and that compliance with the Zoning Code would constitute an economic hardship for the homeowners.

AYES: Brown and Myers

NOES: Ameri, Hillgren, Kramer, Lawler, and Tucker

**Motion** made by Vice Chair Tucker and seconded by Commissioner Kramer and carried (5 – 2), to adopt Resolution No. 1918 denying Variance No. VA2013-002.

AYES: Ameri, Hillgren, Kramer, Lawler, and Tucker

NOES: Brown and Myers

**ITEM NO. 4 LIDO VILLAS (PA2012-146)****Site Location:** 3303 and 3355 Via Lido

Assistant Planner, Makana Nova, presented details of the staff report addressing location, description of the project, General Plan, Coastal Land Use Plan, and Zoning Code amendments, Site Development Review, Tentative Tract Map, and Mitigated Negative Declaration. She addressed surrounding properties, properties associated with the project site, abandoned alley running through the property, existing conditions, parking, existing structures, density, and additional units. She reported details of the proposed amendments and noted that the appropriate tribal consultation notices had been distributed. She noted that the Coastal Commission has commented on the proposed land-use changes and loss of parking opportunities. Ms. Nova addressed development standards, the goals of the planned community, the site plan, number of proposed units, access, on-site parking, impacts to on-street parking, and reduction in traffic trips by the proposed changes in land uses. She addressed standard setbacks, proposed project-specific setbacks, elevations, limits to structure heights, architectural elements, and noted that the project is subject to the Lido Village Design Guidelines.

Ms. Nova emphasized the goals of the Lido Village Design Guidelines relative to compatibility to surrounding land uses, architectural theme, and the use of high-quality building materials. She addressed open space areas, common areas, landscaping, easements, emergency access, required improvements as part of the tract map approval, and the public comment period related to the Mitigated Negative Declaration. She listed the public comments received from other agencies and residents and referenced the mitigation monitoring program relative to air quality, cultural resources, and management of hazardous materials during demolition and construction. She presented findings and recommendations to continue the item to the Planning Commission meeting of September 5, 2013.

Vice Chair Tucker asked for a plan indicating which materials will be used on elevations and commented on the Design Guidelines.

Principal Planner Jim Campbell reported that the Design Guidelines were reviewed by a Citizens Advisory Panel and were adopted by resolution by the City Council. He added that the Planning Commission would determine if the project is consistent with the Design Guidelines.

Assistant City Attorney Mulvihill added that the Design Guidelines are meant to represent, conceptually, what the design in the area should look like. They are guidelines for the Planning Commission to consider whether the area conforms to those guidelines.

Vice Chair Tucker commented on the Conditions of Approval and inquired regarding landscaping versus hardscaping.

Ms. Nova commented on spaces that have been identified as common areas and that there is a requirement to provide landscaping wherever possible adding that a lot of the interior hardscape will be used for vehicle circulation.

Vice Chair Tucker felt that the plan lacks landscaping near the areas where units are located. He wondered regarding whether anyone is able to buy the units or whether it would be for people with ambulatory disabilities.

Ms. Nova reported they are not exclusive to persons with disabilities.

In reply to Chair Hillgren's inquiry regarding a requirement for ADA compliant units, Ms. Nova responded in the affirmative and reported that the Building Division is charged with ensuring compliance with ADA requirements at plan check. She also addressed park and housing in-lieu fees, clarified that the fee is charged on a per unit basis, and that the fee will be required prior to recordation of the tract map.

Assistant City Attorney Mulvihill reported that this procedure is standard practice.

Ms. Nova noted that it is not the City's standard practice to review CC&Rs but that conditions could be added similarly to what is being proposed under the Uptown project.

Vice Chair Tucker felt that language should be added allowing the City an opportunity to enforce the CC&Rs. He referenced the PC text and a provision requiring a six-foot block wall between the commercial property and this property.

Ms. Nova reported that a six-foot block wall is proposed for the project and noted it is typical and required per the Zoning Code.

Vice Chair Tucker referenced a list of permitted and prohibited uses with the PC text and suggested eliminating reference to the prohibited uses or inserting language that prohibited uses are all of those uses not listed in the permitted uses. He addressed parking requirements and suggested adding language that garages be used for cars rather than storage. He reiterated the request for a list and example of the materials to be used.

Commissioner Kramer commented that this is not the first time the Commission has asked for a materials board and felt that it should be a standard practice as part of the application process.

Ms. Wisneski stated that material boards are available for this project.

Discussion followed regarding encouraging development in similar areas, being careful that what the Planning Commission approves is what the project will look like, the quality of the wood siding to be used, and including appropriate provisions within the CC&Rs.

Commissioner Brown referenced a letter from Robert Hawkins regarding the Design Guidelines and requested comments regarding the validity of his points.

Mr. Campbell reported receiving the letter this afternoon and noted that staff has not had a chance to review it. He agreed with Mr. Hawkins regarding the guidelines not being enforceable regulations and addressed the need to be consistent with the guidelines and compatible with the area. He requested an opportunity to review the matter further and return to the Planning Commission at the September 5, 2013, meeting. He reported that the 423 analysis is not an environmental issue but relates to requiring a vote of the electorate and is a procedural issue.

Vice Chair Tucker commented on the analysis and addressed the units requiring a General Plan amendment and those already authorized for residential. He noted that Charter Section 423 deals with density and effects on traffic. He encouraged staff to respond to the letter.

Commissioner Brown expressed concerns with parking and agreed with Vice Chair Tucker's recommendation regarding including language that garages be used for cars rather than storage.

Commissioner Kramer indicated support for the application but expressed concerns regarding the quality of the architectural design.

Ms. Nova indicated that the matter can be expanded upon within the PC text and that architectural design and building maintenance would be regulated under the CC&Rs.

Commissioner Kramer felt it would be appropriate to add detail within the PC text regarding architectural design requirements.

Ms. Nova reported that the project conforms to the Lido Village Design Guidelines, overall. She agreed that the issue merits additional consideration and discussion.

Deputy Community Development Director Wisneski added that design issues can be further discussed and addressed at the September 5th Planning Commission meeting.

Discussion followed regarding relocation of the existing church.

Commissioner Ameri expressed concerns regarding guest parking.

Vice Chair Tucker referenced the Coastal Section of the Design Guidelines and highlighted pictures illustrating some of the concepts.

Chair Hillgren reported on a similar project by the developer that can be seen in order to obtain a sense of the materials to be used. He addressed the importance of setbacks and height limitations.

Ms. Nova reported on the establishment of setbacks on all streets facing frontages and addressed differences in first- and second-floor setbacks and future improvement of adjacent rights-of-ways for pedestrian uses. She added that trees on street-facing frontages will be replaced with new street trees and reported the heights of existing and proposed structures.

Mr. Campbell commented on the various heights and impacts to surrounding areas.

**Motion** made by Vice Chair Tucker and seconded by Commissioner Brown and carried (7 – 0) to continue the matter to the Planning Commission meeting of September 5, 2013.

AYES: Ameri, Brown, Hillgren, Kramer, Lawler, Myers, and Tucker  
NOES: None

**ITEM NO. 5 HOUSING ELEMENT UPDATE (PA2012-104)**  
**Site Location:** 100 Civic Center Dr., Newport Beach

Assistant Planner Melinda Whelan presented details of the final draft of the Housing Element and noted it is the only element within the General Plan that requires review by the State the Department of Housing and Community Development (HCD) which has specific guidelines and requirements. She addressed the goals and purpose of the Housing Element and presented background and previous review of the matter as well as consideration and action by Council. She highlighted the changes recommended by Council relative to the removal of the Inclusionary Housing Program. Ms. Whelan addressed findings and presented recommendations as listed in the report.

Discussion followed regarding applicability of the in-lieu affordable housing fee and options available to Council regarding the matter.

Interested parties were invited to address the Planning Commission on this item.

Jim Mosher commented on the removal of the in-lieu affordable housing fee and streamlining the process with HCD. He referenced a conference call and changes made and felt that the changes are not specified in the report and should be included in Council packets. He addressed a CEQA finding within the resolution and suggested including addressing a finding of some kind.

There being no others wishing to address the Planning Commission, Chair Hillgren closed the public hearing.

**Motion** made by Vice Chair Tucker and seconded by Commissioner Brown and carried (7 – 0) to adopt a resolution recommending adoption of the 2014-2021 Housing Element Update to the City Council.

AYES: Ameri, Brown, Hillgren, Kramer, Lawler, Myers, and Tucker  
NOES: None

**ITEM NO. 3     UPTOWN NEWPORT MSDR (PA2013-129)**  
**Site Location:** 4311-4321 Jamboree Road

Commissioner Lawler reported a business interest with a property located near the subject property and recused himself from hearing the aforementioned time and requested being excused for the remainder of the meeting. Commissioner Lawler's request was granted and he departed the chambers at this time.

Associate Planner Rosalinh Ung presented details of the report and addressed approved entitlements for the project, identification of a two-phase process, the purpose of the Master Site Development Review, and compliance with zoning documents. She addressed architectural focal points at each end of the entry drive at the Fairchild intersection and recommendations that the Planning Commission review these for compliance with applicable provisions. She referenced written comments received from Jim Mosher and noted that the Zoning Administrator recently approved a Tentative Parcel Map to subdivide the existing two (2) parcels into four (4) parcels. She noted that no development for improvements are proposed as part of the application and as a condition of approval, a Tentative Parcel Map cannot be recorded until the Master Site application is approved by the Planning Commission; therefore, the legal description stated in the draft resolution is valid. She presented recommendations as stated in the report.

In response to Chair Hillgren's inquiry, Ms. Ung clarified that the Commission is being asked to review all of the architectural design including landscaping, lighting, fencing, grading, and site improvements as a Master Development for the entire project. She added that staff is seeking direction regarding the architectural design of the main entryways.

Discussion followed regarding review of the environmental effects.

Ms. Ung explained that the Commission is not being asked to review environmental issues, just merely recognize the previously-approved environmental document and the legal statement for noticing purposes and action at this time. She noted that the Commission previously considered and approved the environmental impact review report for this project.

Ensuing discussion pertained to ensuring that the plans are reviewed against the proper materials.

Ms. Ung explained the Master Site Development Review requirements are stated within the zoning documents.

Chair Hillgren reported that he does not have the final version of the documents needed to evaluate the matter and is not as prepared as he would like to be.

Vice Chair Tucker commented on the plans he was able to review and questioned if staff has checked them in relation to the Design Guidelines. He noted that the Planning Commission has reviewed and has acted on many of the plans and emphasized the need to review the architectural building elevations.

Commissioner Ameri addressed previous consideration of and actions related to the project. He noted that the main concerns at this time relate to the architectural building elevations. He indicated that the intention is not to restart the process or reconsider the elements in the plans, but rather consider the architecture elements in core areas and review the proposed building materials.

Chair Hillgren reiterated his concern that what is being reviewed is what was previously approved.

Chair Hillgren invited the applicant to address the Planning Commission.

Bill Shopoff, The Shopoff Group, provided a PowerPoint presentation addressing background, project approvals received, attempts at and agreements in order to be good neighbors, and elements of the Master Development Site Plan. He addressed the purpose of the review to ensure that the plan is proceeding in a consistent manner and complies with the PC text and in conformance with applicable regulations. He noted prior meetings with staff and neighbors and addressed changes made including enhancements to "paseos," pedestrian access, access to retail uses, and setbacks.



Trent Noll of Valley Crest addressed the Landscape Plan including proposed trees along the spine street, canopy trees, planting of parkways, secondary streets leading into the neighborhood, turn-around areas and details of the two (2) proposed parks and private amenity opportunities. He presented details of the phase-one park plan consists of a promenade for activities, a multipurpose lawn and stage, multipurpose gathering areas, and access from the residential units to the parks.

Kendall Nilmeier of MVE explained how the building elevations and architecture are reflective of the Design Guidelines. He identified retail zones, amenity spaces, and opportunities for street activation. He noted the attempts at fitting in with the existing commercial zone by using strong, predominantly contemporary styles in architecture to blend in with the environment. He addressed massing and composition, the entry at Fairchild, and design elements of the various building elevations. Mr. Nilmeier addressed the use enhanced materials, the architectural elements for façades, and referenced color and material boards submitted for the Planning Commission's consideration.

Vice Chair Tucker asked regarding the composition of the primary building materials and it was noted that they are primarily plaster and stucco.

Mr. Nilmeier stated that a range of options are available for the materials and noted the enhanced materials identified.

Members of the Planning Commission carefully reviewed the color and materials boards at this juncture.

Commissioner Kramer commended the applicant for committing to use enhanced materials. He expressed concerns regarding the corner entrance on Jamboree and Fairchild and felt that it should be an iconic entrance and that enhancements are needed in the design for that portion of the project. He commented on the "institutional" look of the building similar to what would exist in Irvine and felt that further consideration should be given to the design.

Chair Hillgren commended the applicant on the quality and level of detail in the color and materials board and reiterated his concern of not having the current set of criteria to compare with what is being proposed. He commented positively on the mass issue and wondered regarding the cohesiveness and theme of the architecture. He agreed with Commissioner Kramer's comment regarding the "institutional" look of Building 2 and commented positively on the quality of materials and encouraged enhanced architecture at ground levels of buildings. He noted that the comments are meant to be constructive and addressed connections to the Koll Center. He addressed signage and the need for using quality materials for same.

Commissioner Brown envisioned areas where people can connect such as outdoor cafes, delis, and specialized grocery stores. He commented positively regarding the plans for the parks and felt that providing a sense of cohesion and that representing the area as a "town" would be beneficial.

Mr. Shopoff addressed leasing and commercial areas and noted the need to place retail areas on the exterior with visibility, signalization, and activity.

Commissioner Ameri felt that what was presented at this time is a huge improvement over what was previously presented and was glad that many of the recommendations made by the Planning Commission were implemented. He addressed undulation in the buildings and the façades and hoped that the building materials used will be of the best quality. He stated that this is not an extension of another residential community and felt that the developer has done a good job of transitioning from the Koll Center area to residential areas. He felt that the architectural variety will help to differentiate the buildings. Commissioner Ameri commented on the public facilities near the park areas as well as residential amenities. He commented positively on the architecture and building materials, overall.

Mr. Shopoff reported that it is expected that retail uses will include food services for residents as well as commercial neighbors.

Vice Chair Tucker commented positively on the project, overall and the execution of the Master Site improvements. He expressed concerns regarding the individual buildings and what they will look like since the applicant will not be constructing them. He indicated acceptance for the elevations for the interior of the

project but expressed concerns with Buildings 1 and 2. He felt that there should be another vertical element in the mid-block area of enhanced materials on Building 1, Elevation C, but felt that smooth plaster should not be used along the buildings fronting Jamboree. He suggested deleting smooth plaster as an enhanced material along the Jamboree building frontage and adding "other enhanced-quality material". He noted that the Planning Commission has already approved the site plan.

Mr. Shopoff agreed with Vice Chair Tucker's suggestion regarding the use of smooth plaster and addressed adding a vertical element on Building 1.

Chair Hillgren commented positively on the design but expressed concerns regarding the entry drive.

Vice Chair Tucker reiterated that need to make the building look less "institutional."

Interested parties were invited to address the Planning Commission on this matter.

Jim Mosher reminded the Commission that every other action related to the project has been a recommendation that went to Council. He noted that the action tonight will be final and suggested the Commission consider continuing the item to a later meeting in order to address all of the issues necessary to make an informed decision. He commented on the transfer of school district jurisdiction and Mr. Shopoff's assertion that he would be working with them regarding the matter, but that they have not been contacted by Mr. Shopoff. He hoped that the Commission will consider commitments rather than just promises.

There being no others wishing to address the Planning Commission, Chair Hillgren closed the public hearing.

Chair Hillgren reiterated that he does not have the current criteria with which to compare the proposed architecture and indicated that he is not prepared to act at this time.

Vice Chair Tucker recommended changing Sheet A-3 to include the proper text and more of the enhanced materials shown. He suggested language for the text including enhanced materials/ finish shall include brick, stone, tile, fiber smith panels or other similarly enhanced quality materials and deleting smooth plaster from the list. He referenced Building 2 Frontages F and E and suggested the use of more enhanced materials.

Commissioner Ameri reiterated his understanding that the item for consideration at this time is the review of the architectural design and building materials. He agreed with Vice Chair Tucker's recommendations and felt that the Commission should be able act based on the addition of those recommendations. He did not feel the Commission should delay the project by reviewing the additional enhancements recommended. He felt that what is presented is a "flavor" of what the Commission wants and that the buildings will most likely go through a redesign process in the future. He stated that the City would be obligated to ensure that the design concepts are followed. He indicated that he is satisfied with what has been presented.

**Motion** made by Commissioner Ameri to adopt draft resolution finding that all environmental effects of the Uptown Newport Planned Community have been previously addressed by the certification of Environmental Impact Report No. ER2012-001 (SCH No. 2010051094) and approving Master Site Development Review No. SD2013-002 with changes as recommended by per discussion above.

Chair Hillgren commented on the amount of work done by the applicant and the responsibility of the Planning Commission. He noted the need to be specific regarding what the Commission wants.

Commissioner Ameri indicated his desire to move the project forward.

The motion died for lack of a second.

Commissioner Brown felt that there needs to be a clarification as to who determines whether or not what is being proposed is consistent with the PC text. He stated that if that task belongs to the Commission, there needs to be additional information provided.

Discussion followed regarding the need for staff to review the plan carefully.

Vice Chair Tucker did not feel he needs to see the documents but acknowledged there is a lot of material to review and agreed to continue the matter to allow an opportunity for detailed review of the documents and criteria with which to compare the architectural design proposed.

Ms. Wisneski reported that it is staff's role to ensure that the project complies with the PC text.

Commissioner Ameri noted that the Commission trusts the research conducted by staff and felt that if the Commission decides to continue the item because it does not feel the project is consistent with what was approved, then the Commission is questioning staff's capabilities.

Commissioner Kramer stated he would like the applicant to enhance the entrance to be more iconic and create a less "institutional" look on Building 2 using a higher level of enhancements and finishes.

Commissioner Ameri suggested modifying the motion to include a caveat that subsequent discussion will be limited to the consistency of the project with the PC text and the use of architectural enhancements and building materials.

Chair Hillgren noted various issues discussed and needing to be addressed and reported that the Commission will vote within two (2) weeks based on the changes made and consistency with the PC text.

**Motion** made by Commissioner Kramer and seconded by Vice Chair Tucker and carried (6 – 0 – 1) to continue the matter to the Planning Commission meeting of September 5, 2013, and direct the applicant to implement as proposed and discussed above.

AYES:	Ameri, Brown, Hillgren, Kramer, Myers, and Tucker
NOES:	None
RECUSED:	Lawler

## IX. **STAFF AND COMMISSIONER ITEMS**

### **ITEM NO. 6 MOTION FOR RECONSIDERATION - None**

### **ITEM NO. 7 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

#### **Committee Updates:**

1. Land Use Element Amendment Advisory Committee

Ms. Wisneski presented a brief update on the Land Use Element Amendment Advisory Committee noting that they met last week and listed items considered. She announced a Public Information meeting on September 9, 2013, and the cancellation of the City Council meeting of August 27, 2013.

2. General Plan/Local Coastal Program Implementation Committee

Ms. Wisneski reported that the General Plan/Local Coastal Program Implementation Committee has not met recently.

### **ITEM NO. 8 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT**

Chair Hillgren addressed the need for a spreadsheet of upcoming projects and reported that he will work with Deputy Community Development Director Wisneski to develop one. He reported the need to have discussions regarding distribution of documents to better assist the Commission in preparation for meetings.

Commissioner Ameri commented on the possibility of reducing the size of hard copies of plans submitted to the Commission for ease of readability.

**ITEM NO. 9 REQUESTS FOR EXCUSED ABSENCES**

Chair Hillgren reported that he will not be in attendance at the September 19, 2013, Planning Commission meeting.

**X. ADJOURNMENT**

There being no further business to come before the Planning Commission, the meeting was adjourned at 10:40 p.m.

The agenda for the Regular Meeting was posted on August 16, 2013, at 3:00 p.m., on the City Hall Bulletin Board located in the entrance of the Council Chambers at 100 Civic Center Drive.

\_\_\_\_\_  
Bradley Hillgren, Chair

\_\_\_\_\_  
Kory Kramer, Secretary

**CITY OF NEWPORT BEACH PLANNING COMMISSION MINUTES**  
**Council Chambers – 100 Civic Center Drive**  
**Thursday, August 22, 2013**  
**REGULAR MEETING**  
**6:30 p.m.**

**I. CALL TO ORDER** - The meeting was called to order at 6:30 p.m.

**II. PLEDGE OF ALLEGIANCE** – Commissioner Ameri

**III. ROLL CALL**

PRESENT: Ameri, Brown, Hillgren, Kramer, Lawler, Myers, and Tucker

ABSENT: None

Staff Present: Brenda Wisneski, Deputy Community Development Director; Leonie Mulvihill, Assistant City Attorney; Marlene Burns, Administrative Assistant; Tony Brine, City Traffic Engineer; Jim Campbell, Principal Planner; Makana Nova, Assistant Planner; Rosalinh Ung, Associate Planner; Melinda Whelan, Assistant Planner; and Benjamin Zdeba, Assistant Planner

**IV. ELECTION OF OFFICERS (CONTINUED FROM PREVIOUS MEETING)**

1. Appointment to the General Plan/LCP Committee
  - a. Chair to appoint one additional member, and confirm existing appointments.

Chair Hillgren reported that Commissioner Myers agreed to serve on the General Plan/LCP Committee. He announced the appointment of Commissioner Myers to said Committee.

**V. PUBLIC COMMENTS**

Chair Hillgren invited those interested in addressing the Planning Commission to do so at this time.

Jim Mosher commented on the public hearings to be heard this evening and staff's respective recommendations. He opined that City staff should be neutral in all applications and emphasized that conduct at the hearing can contribute to the public's perception of openness and due process. He reported that Planning Commission hearings are regarded as quasi-judicial hearings thereby requiring full disclosure of communications received and recommended full disclosure of Ex Parte communications. Regarding due process, he believed that the Planning Commission's decisions must be based on accurate facts and felt that once the initial public period is closed, if there are new facts presented, the public period should be reopened so that the public has a chance to rebut on the accuracy of the information.

There being no others wishing to address the Planning Commission, Chair Hillgren closed the Public Comments portion of the meeting.

**VI. REQUEST FOR CONTINUANCES**

Deputy Community Development Director Wisneski reported receiving a request to continue Item No. 4, (Lido Villas - PA2012-146).

Chair Hillgren reported having conversations with the applicant, noted the importance of the matter for the City and indicated preference for having a presentation by staff, presently, to allow the Commission to understand the ~~related primary~~ issues in order to facilitate their review of the materials in advance of the meeting to be held on September 5th. The applicants agreed and Chair Hillgren requested reordering the agenda to move Item No. 4 (Lido Villas - PA2012-146) as well as the Item No. 5 (Housing Element Update – PA2012-104) before Item No. 3 (Uptown Newport MSDR – PA2013-129), in the interest of time.

Commissioner Kramer commented on a prior case under similar circumstances at 407 East Balboa Boulevard.

Mr. Zdeba noted that the property was considered prior to the adoption of the new Zoning Code and commented on the specific circumstances considered at the time. He further clarified that the modification permit granted under the old Zoning Code to 407 East Balboa Boulevard allowed an addition consistent with what is allowed by right in the new Zoning Code.

Commissioner Kramer commented on other physical features of the property.

Commissioner Ameri expressed sympathy for the applicant but felt that there are ways to reach the applicant's intent without having to demolish the property. He addressed the Planning Commission's limit to authority in terms of the ability change the Code. He expressed concerns with setting a precedent.

Commissioner Myers commented on the need to revise the resolution and continue the matter.

Assistant City Attorney Leonie Mulvihill reported that if the intent of the Commission is to consider a resolution for approval, it could be approved at this time if sufficient information is provided to have staff develop a resolution for approval.

The maker of the motion would need to articulate the findings.

Commissioner Kramer indicated he cannot support the findings and will vote against the motion.

Chair Hillgren stated that he encouraged the redevelopment of the property but cannot support the findings. He, noted that the code allows for reasonable expansion of the property but expressed concerns with that the proposal to have the structure built to the eliminate the front setback line is inconsistent with the primary goal of the zoning code. He indicated support for the applicant's efforts to improve the property but stressed the need to comply with the goals of the code.

**Motion** made by Commissioner Myers and seconded by Commissioner Brown and failed (2 – 5), to deny adoption of Resolution No. 1918 denying Variance No. VA2013-002 and support issuance of the variance based on the fact that unique circumstances and conditions exist on the property and that strict compliance with the Zoning Code would deprive the subject property of privileges enjoyed by other properties in the vicinity and the granting of a variance is necessary for the preservation and enjoyment of the property rights of the applicant and will not constitute special privilege or be inconsistent with zoning and will not be detrimental to the neighborhood. Facts in support would be that the property has been in existence for seventy-three (73) years. Special circumstances would include that the property was built prior to significant zoning changes, is currently well-maintained and that compliance with the Zoning Code would constitute an economic hardship for the homeowners.

AYES: Brown and Myers

NOES: Ameri, Hillgren, Kramer, Lawler, and Tucker

**Motion** made by Vice Chair Tucker and seconded by Commissioner Kramer and carried (5 – 2), to adopt Resolution No. 1918 denying Variance No. VA2013-002.

AYES: Ameri, Hillgren, Kramer, Lawler, and Tucker

NOES: Brown and Myers

**ITEM NO. 3 UPTOWN NEWPORT MSDR (PA2013-129)**  
**Site Location:** 4311-4321 Jamboree Road

Commissioner Lawler reported a business interest with a property located near the subject property and recused himself from hearing the aforementioned time and requested being excused for the remainder of the meeting. Commissioner Lawler's request was granted and he departed the chambers at this time.

Associate Planner Rosalinh Ung presented details of the report and addressed approved entitlements for the project, identification of a two-phase process, the purpose of the Master Site Development Review, and compliance with zoning documents. She addressed architectural focal points at each end of the entry drive at the Fairchild intersection and recommendations that the Planning Commission review these for compliance with applicable provisions. She referenced written comments received from Jim Mosher and noted that the Zoning Administrator recently approved a Tentative Parcel Map to subdivide the existing two (2) parcels into four (4) parcels. She noted that no development for improvements are proposed as part of the application and as a condition of approval, a Tentative Parcel Map cannot be recorded until the Master Site application is approved by the Planning Commission; therefore, the legal description stated in the draft resolution is valid. She presented recommendations as stated in the report.

In response to Chair Hillgren's inquiry and concern regarding the commission's ability to act without receipt of copies of the finalized agreements from the previous public hearings, Ms. Ung clarified that the Commission is being asked to review all of the architectural design including landscaping, lighting, fencing, grading, and site improvements as a Master Development for the entire project. She added that staff is seeking direction regarding the architectural design of the main entryways.

Discussion followed regarding review of the environmental effects.

Ms. Ung explained that the Commission is not being asked to review environmental issues, just merely recognize the previously-approved environmental document and the legal statement for noticing purposes and action at this time. She noted that the Commission previously considered and approved the environmental impact review report for this project.

Ensuing discussion pertained to ensuring that the plans are reviewed against the proper materials.

Ms. Ung explained the Master Site Development Review requirements are stated within the zoning documents.

Chair Hillgren reported that he does not have the final version of the documents needed to evaluate the matter and is not as prepared as he would like to be.

Vice Chair Tucker commented on the plans he was able to review and questioned if staff has checked them in relation to the Design Guidelines. He noted that the Planning Commission has reviewed and has acted on many of the plans and emphasized the need to review the architectural building elevations.

Commissioner Ameri addressed previous consideration of and actions related to the project. He noted that the main concerns at this time relate to the architectural building elevations. He indicated that the intention is not to restart the process or reconsider the elements in the plans, but rather consider the architecture elements in core areas and review the proposed building materials.

Chair Hillgren reiterated his concern that what is being reviewed is what compared with what was previously approved.

Chair Hillgren invited the applicant to address the Planning Commission.

Bill Shopoff, The Shopoff Group, provided a PowerPoint presentation addressing background, project approvals received, attempts at and agreements in order to be good neighbors, and elements of the Master Development Site Plan. He addressed the purpose of the review to ensure that the plan is proceeding in a

consistent manner and complies with the PC text and in conformance with applicable regulations. He noted prior meetings with staff and neighbors and addressed changes made including enhancements to "paseos," pedestrian access, access to retail uses, and setbacks.

Trent Noll of Valley Crest addressed the Landscape Plan including proposed trees along the spine street, canopy trees, planting of parkways, secondary streets leading into the neighborhood, turn-around areas and details of the two (2) proposed parks and private amenity opportunities. He presented details of the phase-one park plan consists of a promenade for activities, a multipurpose lawn and stage, multipurpose gathering areas, and access from the residential units to the parks.

Kendall Nilmeier of MVE explained how the building elevations and architecture are reflective of the Design Guidelines. He identified retail zones, amenity spaces, and opportunities for street activation. He noted the attempts at fitting in with the existing commercial zone by using strong, predominantly contemporary styles in architecture to blend in with the environment. He addressed massing and composition, the entry at Fairchild, and design elements of the various building elevations. Mr. Nilmeier addressed the use enhanced materials, the architectural elements for façades, and referenced color and material boards submitted for the Planning Commission's consideration.

Vice Chair Tucker asked regarding the composition of the primary building materials and it was noted that they are primarily plaster and stucco.

Mr. Nilmeier stated that a range of options are available for the materials and noted the enhanced materials identified.

Members of the Planning Commission carefully reviewed the color and materials boards at this juncture.

Commissioner Kramer commended the applicant for committing to use enhanced materials. He expressed concerns regarding the corner entrance on Jamboree and Fairchild and felt that it should be an iconic entrance and that enhancements are needed in the design for that portion of the project. He commented on the "institutional" look of the building similar to what would exist in Irvine and felt that further consideration should be given to the design.

Chair Hillgren commended the applicant on the quality and level of detail in the color and materials board and reiterated his concern of not having the current set of criteria to compare with what is being proposed. He commented positively on the massing ing of the buildings and overall articulation of the architecture but had concerns issue and wondered regarding the cohesiveness and theme of the architecture. He agreed with Commissioner Kramer's comment regarding the "institutional" look of Building 2 – particularly at the Jamboree entrance which looks more like a business campus than a residential town center. He and commented positively on the quality of materials and encouraged enhanced architecture at ground levels of buildings where the quality will best serve residents and visitors. He noted that the comments are meant to be constructive and- He addressed the need for good connections to the Koll Center properties in order to achieve a successful mixed use environment and does not believe the plans presented achieve this as well as they could. He addressed signage and the need for using better quality materials which are consistent with the overall quality of the project for same. He noted that all comments are meant to be constructive and believed the commission has consistently made comments and recommendations intended to improve the overall success of the project.

Commissioner Brown envisioned areas where people can connect such as outdoor cafes, delis, and specialized grocery stores. He commented positively regarding the plans for the parks and felt that providing a sense of cohesion and that representing the area as a "town" would be beneficial.

Mr. Shopoff addressed leasing and commercial areas and noted the need to place retail areas on the exterior with visibility, signalization, and activity.

Commissioner Ameri felt that what was presented at this time is a huge improvement over what was previously presented and was glad that many of the recommendations made by the Planning Commission were implemented. He addressed undulation in the buildings and the façades and hoped that the building materials used will be of the best quality. He stated that this is not an extension of another residential



community and felt that the developer has done a good job of transitioning from the Koll Center area to residential areas. He felt that the architectural variety will help to differentiate the buildings. Commissioner Ameri commented on the public facilities near the park areas as well as residential amenities. He commented positively on the architecture and building materials, overall.

Mr. Shopoff reported that it is expected that retail uses will include food services for residents as well as commercial neighbors.

Vice Chair Tucker commented positively on the project, overall and the execution of the Master Site improvements. He expressed concerns regarding the individual buildings and what they will look like since the applicant will not be constructing them. He indicated acceptance for the elevations for the interior of the project but expressed concerns with Buildings 1 and 2. He felt that there should be another vertical element in the mid-block area of enhanced materials on Building 1, Elevation C, but felt that smooth plaster should not be used along the buildings fronting Jamboree. He suggested deleting smooth plaster as an enhanced material along the Jamboree building frontage and adding "other enhanced-quality material". He noted that the Planning Commission has already approved the site plan.

Mr. Shopoff agreed with Vice Chair Tucker's suggestion regarding the use of smooth plaster and addressed adding a vertical element on Building 1.

Chair Hillgren commented positively on the design but expressed concerns regarding the entry drive for building #2.

Vice Chair Tucker reiterated that need to make the building look less "institutional."

Interested parties were invited to address the Planning Commission on this matter.

Jim Mosher reminded the Commission that every other action related to the project has been a recommendation that went to Council. He noted that the action tonight will be final and suggested the Commission consider continuing the item to a later meeting in order to address all of the issues necessary to make an informed decision. He commented on the transfer of school district jurisdiction and Mr. Shopoff's assertion that he would be working with them regarding the matter, but that they have not been contacted by Mr. Shopoff. He hoped that the Commission will consider commitments rather than just promises.

There being no others wishing to address the Planning Commission, Chair Hillgren closed the public hearing.

Chair Hillgren reiterated that he does not have the current criteria with which to compare the proposed architecture and indicated that he is not prepared to act at this time.

Vice Chair Tucker recommended changing Sheet A-3 to include the proper text and more of the enhanced materials shown. He suggested language for the text including enhanced materials/ finish shall include brick, stone, tile, fiber smith panels or other similarly enhanced quality materials and deleting smooth plaster from the list. He referenced Building 2 Frontages F and E and suggested the use of more enhanced materials.

Commissioner Ameri reiterated his understanding that the item for consideration at this time is the review of the architectural design and building materials. He agreed with Vice Chair Tucker's recommendations and felt that the Commission should be able act based on the addition of those recommendations. He did not feel the Commission should delay the project by reviewing the additional enhancements recommended. He felt that what is presented is a "flavor" of what the Commission wants and that the buildings will most likely go through a redesign process in the future. He stated that the City would be obligated to ensure that the design concepts are followed. He indicated that he is satisfied with what has been presented.

**Motion** made by Commissioner Ameri to adopt draft resolution finding that all environmental effects of the Uptown Newport Planned Community have been previously addressed by the certification of Environmental Impact Report No. ER2012-001 (SCH No. 2010051094) and approving Master Site Development Review No. SD2013-002 with changes as recommended by per discussion above.

Chair Hillgren commented on the amount of work done by the applicant and the responsibility of the Planning Commission. He noted the need for any motion to be specific regarding what the Commission wants.

Commissioner Ameri indicated his desire to move the project forward.

The motion died for lack of a second.

Commissioner Brown felt that there needs to be a clarification as to who determines whether or not what is being proposed is consistent with the PC text. He stated that if that task belongs to the Commission, there needs to be additional information provided.

Discussion followed regarding the need for staff to review the plan carefully.

Vice Chair Tucker did not feel he needs to see the documents but acknowledged there is a lot of material to review and agreed to continue the matter to allow an opportunity for detailed review of the documents and criteria with which to compare the architectural design proposed.

Ms. Wisneski reported that it is staff's role to ensure that the project complies with the PC text.

Commissioner Ameri noted that the Commission trusts the research conducted by staff and felt that if the Commission decides to continue the item because it does not feel the project is consistent with what was approved, then the Commission is questioning staff's capabilities.

Commissioner Kramer stated he would like the applicant to enhance the entrance to be more iconic and create a less "institutional" look on Building 2 using a higher level of enhancements and finishes.

Commissioner Ameri suggested modifying the motion to include a caveat that subsequent discussion will be limited to the consistency of the project with the PC text and the use of architectural enhancements and building materials.

Chair Hillgren noted various issues discussed and needing to be addressed and reported that the Commission will vote within two (2) weeks based on the changes made and consistency with the PC text.

**Motion** made by Commissioner Kramer and seconded by Vice Chair Tucker and carried (6 – 0 – 1) to continue the matter to the Planning Commission meeting of September 5, 2013, and direct the applicant to implement as proposed and discussed above.

AYES: Ameri, Brown, Hillgren, Kramer, Myers, and Tucker  
NOES: None  
RECUSED: Lawler

## IX. STAFF AND COMMISSIONER ITEMS

**ITEM NO. 6 MOTION FOR RECONSIDERATION - None**

**ITEM NO. 7 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

### **Committee Updates:**

1. Land Use Element Amendment Advisory Committee

Ms. Wisneski presented a brief update on the Land Use Element Amendment Advisory Committee noting that they met last week and listed items considered. She announced a Public Information meeting on September 9, 2013, and the cancellation of the City Council meeting of August 27, 2013.

2. General Plan/Local Coastal Program Implementation Committee